

Message Text

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AMEMBASSY MOSCOW

C O N F I D E N T I A L IAEA VIENNA 1033

E.O. 11652: GDS

TAGS: PARM TECH IAEA SP

SUBJ: IAEA/SPAIN SAFEGUARDS AGREEMENT; INTERPRETATION
OF IAEA SAFEGUARDS AGREEMENTS RE NON-PNE USE

REF: (A) STATE 019477

(B) STATE 185326 (AUG 23, 1974, NOTAL)

1. FOLLOWING IS CURRENT STATE OF PLAY ON IAEA/SPAIN SAFEGUARDS AGREEMENT, WHICH BOTH SOVIETS AND GOS ANXIOUS TO PLACE ON FEBRUARY BOARD AGENDA. NEGOTIATIONS WITH AGENCY NOT YET CONCLUDED, HOWEVER, AND BALL NOW IN MADRID'S COURT. AGENCY, AT SOVIET SUGGESTION, NOW PLANNING ADDRESS, IN CONTEXT OF SPANISH AGREEMENT, QUESTION OF INTREPRETATION OF ALL IAEA SAFEGUARDS AGREEMENTS WITH RESPECT "NO NUCLEAR EXPLOSIVE USE" PROHIBITION (REF B).

2. SOVIETS SEEM PREFER AN AGREEMENT COVERING ONLY USSR-SUPPLIED MATERIAL, RATHER THAN "MASTER" AGREEMENT WHICH COULD ALSO ENCOMPASS FUEL SUPPLIED FROM OTHER (NON-SOVIET) SOURCES. SPANISH VIEWS ON THIS POINT NOT YET KNOWN. (COMMENT: BOTH MISSION AND SECRETARIAT PUZZLED BY THIS SOVIET POSITION, AS WELL AS BY URGENCY THEY PLACE ON EARLY BOARD APPROVAL OF AN AGREEMENT WHICH WOULD COVER
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ENRICHED MATERIAL WHICH, ACCORDING OUR INFO, WILL NOT

BE DELIVERED TO SPAIN UNTIL 1977 AT EARLIEST).

3. WITH RESPECT TO NO-NUCLEAR-EXPLOSIVE-USE UNDERTAKING (SECTION 2 DRAFT TEXT), SPANISH HAVE OBJECTED TO INCLUSION IN TEXT OF PROPOSED LANGUAGE WHICH REFERS TO "OTHER NUCLEAR EXPLOSIVE DEVICES," AND HAVE SUGGESTED INSTEAD THAT SPAIN WOULD INFORM AGENCY IN AN APPROPRIATE WRITTEN DECLARATION THAT IT ACCEPTS PROHIBITION AGAINST USE OF THE SOVIET-SUPPLIED MATERIAL FOR OTHER NUCLEAR EXPLOSIVE DEVICES, IN LIEU OF SPECIFIC REFERENCE IN THE AGREEMENT. SOVIETS HAVE INFORMED AGENCY THAT THEY WOULD BE PREPARED ACCEPT SPANISH WRITTEN DECLARATION TOGETHER WITH AN APPROPRIATE AGENCY REPLY EVEN THOUGH THEY WOULD PREFER TO HAVE PNE PROHIBITION REMAIN IN TEXT OF AGREEMENT. SOVIETS HAVE POINTED OUT TO AGENCY IT WOULD BE DIFFICULT TO INSIST ON THE NON-NUCLEAR-EXPLOSIVE-USE CLAUSE BEING SPELLED OUT IN THE AGREEMENT BECAUSE THE US-ISRAELI AGREEMENT, WHICH WILL ALSO BE BEFORE THE BOARD, DOES NOT CONTAIN A COMPARABLE PNE PROHIBITION. AGENCY HAS INFORMED SOVIETS (AS HAS MISSION) THAT PNE PROHIBITION IN THE CASE OF ISRAELI AGREEMENT WILL BE HANDLED BY EXCHANGE OF NOTES BETWEEN US AND ISRAEL. SOVIETS FEEL COMPARABLE PROCEDURE WILL SUFFICE IN CASE OF SPAIN.

4. AGENCY'S PRESENT INTENTION IS TO REPLY TO SPANISH DECLARATION, ACKNOWLEDGING THE SPANISH COMMITMENT WITH RESPECT TO THE PNE PROHIBITION AND CONFIRMING THAT THE AGENCY HAS ALWAYS INTERPRETED SAFEGUARDS AGREEMENTS AS INCLUDING IN THE "NO MILITARY PURPOSE" UNDERTAKING THE CLEAR AND INDISPENSABLE UNDERSTANDING THAT THIS ALSO APPLIED TO NON-USE OF MATERIAL FOR OTHER NUCLEAR EXPLOSIVE DEVICES. THIS WILL HAVE RESULT OF ESTABLISHING ONCE AND FOR ALL, ON THE RECORD THAT THE AGENCY WILL INTERPRET AND ADMINISTER ALL EXISTING AND NEW AGREEMENTS IN THIS WAY IN THE FUTURE. IT ACCOMPLISHES THE OBJECTIVE WHICH WE ATTEMPTED TO ACHIEVE IN THE FALL OF 1974 (REF B).

5. FURTHERMORE, AGENCY IS CONSIDERING ANNOUNCING AT THE SAME TIME IN THE BOARD MEETING THAT, IN THE FUTURE, ALL NEWLY NEGOTIATED AGREEMENTS WILL CONTAIN A SPECIFIC NO-CONFIDENTIAL

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NUCLEAR-EXPLOSIVE CLAUSE AS AMPLIFICATION OF THE NO-MILITARY-PURPOSE UNDERTAKING. THIS WOULD OBIVIATE NECESSITY FOR MEMBER STATES, IN THE FUTURE, HAVING TO RESORT TO ROUND-ABOUT PROCEDURES SUCH AS THE SPANISH DECLARATION OR THE EXCHANGE OF NOTES WHICH CHARACTERIZE, FOR EXAMPLE, THE US/ISRAEL AND THE CANADIAN/ARGENTINE SAFEGUARDS AGREEMENTS, BUT IT IN NO WAY SHOULD ALTER AGENCY INTERPRETATION WITH RESPECT TO EXISTING SAFEGUARDS AGREEMENTS.

6. COMMENT: MISSION ENDORSES AGENCY'S CONTEMPLATED ACTION IN PARA 4 ABOVE, WHICH ALSO FULFILLS DEPARTMENT'S INSTRUCTIONS IN REF B. WITH RESPECT PARA 5 PROPOSAL, WE RESERVING JUDGMENT UNTIL AGENCY COMES UP WITH A MORE PRECISE DRAFT OF WHAT IT INTENDS TO SAY, ASSUMING IT DECIDES SAY ANYTHING. THE IDEA IS A GOOD ONE, SO LONG AS IT CASTS NO DOUBT ON THE APPLICABILITY OF THE PNE PROHIBITION IN THE ADMINISTRATION OF EXISTING SAFEGUARDS AGREEMENTS.

7. WOULD APPRECIATE DEPARTMENT'S AND ERDA'S REACTIONS TO PARA 5 PROPOSAL. PORTER

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